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IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1979

MOSE FRANKLIN PEARSON,
Petitioner
-VS-
UNITED STATES OF AMERICA,
Respondent

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Court of Appeals No. 74-3680

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Court of Appeals No. 74 3680

Mose Franklin Pearson, by his attorney, Carl Ziemba, and Robert F. Mitchell, Jr. of counsel, prays this Court issue a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit in the case of United States of America, plaintiff-appellee vs Mose Franklin Pearson, defendant-appellant, No. 74 3680, to review the Opinion filed on August 8, 1975 affirming petitioner's convictions for conspiracy to import heroin into the country and for two counts of importation of heroin into the country.

OPINION AND ORDER BELOW

The Court of Appeals issued an Opinion in the case which was published *sub nomine United States* v *King*, 517 F2d 350 (CA5 1975). The Opinion is appended hereto as Appendix 'A'.

Petitioner's petition for rehearing was denied by the Court by Order dated September 4, 1975.

STATEMENT OF JURISDICTION

The Opinion of the Court of Appeals affirming the judgment of the district court was filed on August 8, 1975.

The Order denying petitioner's petition for rehearing was filed on September 4, 1975.

The jurisdiction of this Court is invoked under 28 USC §1254(1).

Further, the Court is asked to exercise its discretion and grant the writ even though it is filed out of time under authority of *Taglianetti* v *United States*, 394 US 316 (1969) and *Heflin* v *United States*, 358 US 415 (1959) because of the extreme importance of the question presented.

CONSTITUTIONAL PROVISION INVOLVED

The Fourth Amendment to the United States Constitution provides as follows:

> 'The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.'

QUESTION PRESENTED

Whether a United States customs inspector can, without conforming to the warrant requirements of the Fourth Amendment to the United States Constitution, open a first class letter which had been mailed to the United States from a foreign country *after* the letter had entered into the domestic mails of the United States postal system and when the letter was brought to the customs inspector by an

employee of the United States Postal Department specifically for the purpose of the customs inspector's opening the letter without a warrant.

STATEMENT OF PERTINENT FACTS

Petitioner was charged in a three county indictment with the commission of the offenses of (1) conspiracy to import heroin into the USA, to use the mail facilities to import heroin into the USA and to unlawfully distribute and possess with intent to distribute heroin, all in violation of 21 USC 952(a), 21 USC 843(b) and 21 USC 841(a) (1); and (2) with the importation into the country of 5.6 grams of heroin on May 11, 1974; and (3) with the importation into the country of 5.5 grams of heroin on May 18, 1974.

Named as co-conspirators under the conspiracy count were the following: Edward King, Soontorn Chaiwatanatorn, John Wesley Holmes and Arthur Sonny Murray.

Only petitioner, King and Murray were placed on trial in the case.

The case was tried to a jury. Murray was dismissed as a defendant on the government's motion because of insufficient evidence. The jury convicted King under the conspiracy count; and the jury convicted petitioner under all three counts.

It was the government's theory of the case that the conspirators agreed that they 'would and did obtain heroin from traffickers and sources ascertained while Edward King, John Wesley Holmes and others were in the service of the armed forces of the United States in Thailand in Southeast Asia' and that they 'would and did obtain heroin in a relatively pure state and send it in numerous envelopes from Thailand and elsewhere, each envelope containing a relatively small quantity of such heroin, to places within the United States of America by the facilities of the United

States mail system' and that they 'would and did obtain post office boxes in Birmingham and Harpersville, Alabama, Detroit, Michigan, and other places to the Grand Jury unknown for the purpose of receiving envelopes containing heroin' (Trial Tr 734-735).

It may be assumed for the purposes of this petition that the government adduced sufficient evidence which, if believed by the jury, would convince a rational trier of the facts that petitioner's guilt on all three counts was established.

Included in the evidence presented to the jury were ten letters addressed to Edward King, P.O. Box 30110 in Birmingham, Alabama. Each had a return address of APO 96430, San Francisco, the ultimate location being Takhli, Thailand. An employee of the Avondale Post Office station turned these letters over to a postal inspector who discerned that a soft cushion material within the envelopes shifted about as he turned the envelopes. The ten letters were taken to the Port Director for customs at the Birmingham Municipal Airport in Alabama and this Port Director opened the letters without warrant and a white powder was found to be contained in each of the letters. This white powder proved to be heroin (Trial Tr 148-195).

On another occasion, a postal inspector gathered 15 letters from several post offices in Birmingham, Alabama and took them to the customs office in Birmingham where they were opened without warrant. Of these, 13 were found to contain heroin (Trial Tr 374-388).

On still another occasion, a postal inspector took 7 letters from the post office to the customs office where they were opened without warrant. Of these, five contained heroin (Trial Tr 389-390).

On another occasion a postal inspector took six letters from the Harpersville post office addressed to Sonny Murray to the customs office in Birmingham where they

were opened without warrant and each of the letters was found to contain heroin (Trial Tr 464-470).

On still another occasion, a postal inspector took letters from the Harpersville post office to the customs director and they were opened without warrant and some were found to contain heroin (Trial Tr 488-498).

A postal inspector in Detroit, Michigan took 8 letters addressed to one Sylvester Pearson in Detroit to the customs officials in Detroit and these letters were opened in customs without a warrant and were found to contain heroin (Trial Tr 567-572).

On another occasion in Detroit, a DEA agent received from a postal inspector in Detroit 30 letters addressed to various addresses in Detroit and these were taken to the customs supervisor in Detroit and opened (Trial Tr 616-617), and later in the same month, another 27 letters were taken from the mails in Detroit and taken to the customs inspector (Trial Tr 617-619).

The trial record is somewhat confusing on the point but it may safely be said that most of the letters which were opened by customs officials in Birmingham, Alabama and in Detroit, Michigan were introduced into evidence and an expert testified that the letters contained heroin.

Sufficient and adequate motion for the suppression as evidence of these letters were made by the defendants in the trial court and sufficient and adequate objections to the admission of these letters into evidence were made on trial. The motions and the objections were overruled. The bases of the motions and of the objections was that a warrant was required for the opening of these letters under the Fourth Amendment to the United States Constitution.

It may be safely asserted that had the letters which were opened by customs officials without a warrant been suppressed as evidence, petitioner would not have been convicted on any of the three counts.

The trial court sentenced petitioner to a term of imprisonment of 15 years on each of the three counts on which he was convicted with directions that the sentences be served consecutively.

The United States Court of Appeals affirmed the convictions on the bases that by law customs officials do not need probable cause to conduct a search and are not constrained by the warrant requirement of the 4th Amendment and that, in the terms of the statute, customs officials have 'the authority ''to search any trunk or envelope, *wherever found . . . .*'' ', *United States* v *King*, 517 F2d 350, 352 (CA5 1975)

REASONS FOR GRANTING THE WRIT

This case presents to the Court an excellent opportunity to address the important question reserved for future consideration by the Court in *United States* v *Ramsey*, US , 97 S Ct 1972, 1978, footnote 11 (1977):

> 'Nor do we need to decide whether the broad statutory authority subjects such mail to customs inspection at a place other than the point of entry into this country. See *United States* v *King*, 517 F2d 350, 354 (CA5 1975) (''the envelopes had passed an initial customs stage in the customs process when they were routed to Alabama, but they were still in the process of being delivered, and still subject to customs inspection.'')'

Relying on *Boyd* v *United States*, 116 US 616 (1886), this Court stated in *United States* v *Ramsey*, *supra*, that 'searches made at the border, pursuant to the longstanding right of the sovereign to protect itself by stopping and examining persons and property crossing into this country, are reasonable simply by virtue of the fact that they occur at the border' and that 'border searches were not subject to the warrant provisions of the Fourth Amendment and were ''reasonable'' within the meaning of that amendment'. Id at 1979.

But the Court in *Boyd* recognized that the issuance of writs of assistance to revenue officers empowering them 'to search suspected places for smuggled goods' was ' ''the worst instrument of arbitrary power'' ' which 'placed ''the liberty of every man in the hands of every petty officer'' '. Id at 625. The Court also recognized that the adoption of the 4th Amendment reflected concern of American statesmen that the evils of the writ of assistance not find root in this country.

In the case at bar, if the search of the letters in question had been made by custom officials at the border or at the point of entry into the country, no constitutional question would be involved.

But the letters in question had entered into the postal system of the United States, they had been admitted into the country by the custom officials, and for constitutional considerations, the letters in question had the same status as first class letters mailed within the United States and were protected by the warrant requirement of the 4th Amendment. *Ex parte Jackson*, 96 US 727 (1897).

To hold otherwise would be to establish the principle that *every person* and *every object* that entered into the United States from a foreign country would be continuously subject to search by customs officials while in the country and any police officer who had a suspicion of illegality concerning any person or any object which entered into the country from foreign places would turn to any customs official and ask such customs official to make a search without benefit of a search warrant.

Because of the extreme importance of the question herein presented, this Court should exercise its discretion and grant a writ of certiorari.

Especially is this so because petitioner omitted to file a petition for certiorari in timely manner because he had exhausted his finances in the payment of attorney fees on trial and on his appeal as of right to the Circuit Court of

Appeals for the Fifth Circuit and could not meet the demands for fees made by his then appellate counsel. See letter dated September 5, 1975 from counsel to petitioner appended hereto as Appendix 'B'.

CONCLUSION

It is respectfully submitted that for the reasons above given, the Opinion of the Court of Appeals for the Fifth Circuit affirming the judgments of the district court is in conflict with the requirements of the Fourth Amendment to the United States Constitution and petitioner's request for a Writ of Certiorari should be granted.

Respectfully submitted,
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Detroit, Michigan
April , 1980

APPENDIX

517 Federal Reporter, 2d Series

APPENDIX 'A'

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v

Edward KING and Mose Franklin Pearson,
Defendants-Appellants.

No. 74-3680.

United States Court of Appeals,
Fifth Circuit

August 8, 1975

Defendants were convicted before the United States District Court for the Northern District of Alabama, at Birmingham, Clarence W. Allgood, J., of the importation of heroin and of the use of the United States mails to further such importation, possession and distribution, and they appealed. The Court of Appeals, Lewis R. Morgan, Circuit Judge, held that pattern of mail deliveries, which consisted of numerous card size envelopes from a small group of senders with identical overseas addresses, considered along with the envelopes unusual thickness and the powdery cushion which appeared as the envelopes were tapped afforded "reasonable cause," within authorizing statute, for customs officer to open envelopes; and that fact that search of envelopes by customs officer did not take place in post office at port of entry did not make search in Birmingham, Alabama unreasonable by Fourth Amendment standards, since envelopes when routed to addressees in Alabama were still in process of being delivered and still subject to customs inspection.

Affirmed.

1. Customs Duties

Searches by customs officer under authorizing, statute are not limited to border areas only. 19 USCA §482.

2. Customs Duties

Much less than probable cause will suffice in order for government inspection to have "reasonable cause to suspect" under statute authorizing search by customs officer. 19 USCA §482.

3. Customs Duties

Pattern of mail deliveries, which consisted of numerous card size envelopes from a small group of senders with identical overseas addresses, considered along with the envelopes unusual thickness and the powdery cushion which appeared as the envelopes were tapped afforded "reasonable cause," within authorizing statute, for customs officer to open envelopes. 19 USCA §482.

4. Customs Duties

Government has right to examine both persons and merchandise entering country. USCA Const. Amend. 4.

5. Searches and Seizures

Fourth Amendment standards applicable to mail matter moving entirely within country are not applicable to mail matter coming in from outside the country, at least where it appears that a customs determination must be made. USCA Const. Amend. 4.

6. Customs Duties

Right to search persons and merchandise entering country for possible customs violations extends also to incoming first class mail. USCA Const. Amend. 4.

7. Searches and Seizures

Fact that search of envelopes by customs officer did not take place in post office at port of entry did not make search in Birmingham, Alabama unreasonable by Fourth Amendment standards, since envelopes when routed to addressees in Alabama were still in process of being delivered and still subject to customs inspection. USCA Const. Amend. 4.

Lawrence B. Sheffield, Jr., Don G. DeCoudres, Birmingham, Ala., for defendants-appellants.

Wayman G. Sherrer, U.S. Atty., J. Stephen Salter, Asst. U.S. Atty., Birmingham, Ala., for plaintiff-appellee.

Appeals from the United States District Court for the Northern District of Alabama.

Before COLEMAN, MORGAN and CLARK, Circuit Judges.

LEWIS R. MORGAN, Circuit Judge.

Mose Franklin Pearson and Edward King were convicted of the importation of heroin, and of the use of the United States mail to further such importation, possession and distribution, under 21 USC §§ 952(a), 843(b), and 841(a)(1). They appeal, alleging that the government improperly obtained the heroin introduced into evidence against them. Finding that the government exceeded neither statutory nor constitutional limits, we affirm.

Viewed in the light most favorable to the government, *Glasser* v *United States*, 315 US 60, 62 SCt 457, 86 L.Ed 680 (1942), the evidence, introduced at trial proved that King applied for and obtained a post office box at the Avondale branch Post Office, Birmingham, Alabama in late October, 1973. Shortly thereafter, approximately eighteen to twenty envelopes per week began arriving addressed to King at this box. The envelopes were uniformly of Christmas card size, were mailed from abroad, and bore the Army and Air Post Office (A.P.O.) return addresses of a small number of senders.

On December 4, Leo Lyle, the branch's acting manager, removed ten of these envelopes from the normal mail chan-

nels for possible inspection because they felt "thicker than an ordinary Christmas card." The envelopes had entered the United States at San Francisco and been routed to Birmingham without having been inspected. Lyle then gave the envelopes, which bore a single return address and the names of six senders, to a postal inspector, who in turn passed them on to Customs Supervisor Charles Sheehan and Agent Bernie Fenger of the Drug Enforcement Administration.

Agent Fenger first examined the envelopes by tapping them on a hard surface to test for any shift in position of an enclosed substance; the tapping produced a distinct pocket or cushion of powdery material. Sheehan immediately opened the envelopes, finding in each one a Christmas card which in turn held an inner packet containing a white powder; the substance responded positively to a field test for opium derivatives. The men removed a sample from each of the packets, replaced the packets in the envelopes and returned the envelopes to the Postal Service for delivery.

We need not trace the history of this case any further, since the only issue on appeal is the legality of this search. It is sufficient to note that the opening of these envelopes represented the beginning of an investigation which terminated in the arrest of appellants and of two other co-defendants.

I.

Statutory authorization for the search is found in 19 USC § 482 (1965), which provides, in pertinent part, that a customs officer may "search any trunk or envelope wherever found, in which he may have a reasonable cause to suspect there is merchandise which was imported contrary to law . . ."

[1] Appellants' argument that this section authorizes searches only in border areas seems to us without merit. It

is true, of course, that most customs searches take place in such areas, but the very words of the statute negate an interpretation that would deny to agents the authority "to search any trunk or envelope, *wherever found* . . .", assuming of course that the other requisites for a valid customs search are met (emphasis supplied). Additionally, the statute specifically empowers customs officers to make such a search, "as well without as within their respective districts . . ."

[2] Whether the government inspector had the required "reasonable cause to suspect" is likewise a question which need not long detain us. Case law emphatically demonstrates that much less than probable cause will suffice. In *United States* v *Doe*, 472 F2d 982 (2d Cir. 1973), *cert. denied*, 411 US 969, 93 S Ct 2160, 36 L.Ed.2d 691, for example, the court upheld a search by a customs official of a package mailed from South America and marked "old clothing," since the official's experience indicated that such a package might be falsely labeled. In *United States* v *Swede*, 326 F.Supp. 533 (S.D.N.Y.1971), the court upheld the opening of an envelope from which some white powder had escaped, even though the powder reacted negatively to tests for heroin and cocaine. In *United States* v *Sohnen*, 298 F.Supp. 51 (E.D.N.Y.1969), customs officials were held not to have acted improperly in opening a heavy package which lacked a required label stating it could be opened for customs inspection and which spectroscopic examination revealed to contain twelve discs. Finally, in *United States* v *Beckley*, 335 F2d 86 (6th Cir. 1964), the court upheld the opening of a package weighing between nine and ten pounds because a customs clerk suspected that it contained something other than the two wall mats, four pillow cases and two dress robes declared on the outside of the box.

[3] Sheehan likewise had "reasonable cause" to open the envelopes in question. The pattern of mail deliveries (numerous card size envelopes from a small group of senders with identical overseas addresses) is itself somewhat

suspicious. When this factor is considered along with the envelopes' unusual thickness and the powdery cushion which appeared as the envelopes were tapped, it is apparent that Sheehan acted properly.

II.

We must next determine whether the opening of the envelopes violated appellants' Fourth Amendment rights.

[4-6] The government has a traditional and well recognized right to examine both persons and merchandise entering the country. See *Cotzhausen* v *Nazro,* 107 US 215, 2 S Ct 503, 27 L.Ed. 540 (1883); *Boyd* v *United States,* 116 US 616, 6 S Ct 524, 29 L.Ed. 746 (1886); *Carroll* v *United States,* 267 US 132, 45 S Ct 280, 69 L.Ed. 543 (1925); *United States* v *Beckley,* 335 F2d 86, 88 (6th Cir. 1964), *cert denied,* sub nom. *Stone* v *United States,* 380 US 922, 85 S Ct 921, 13 L.Ed2d 807 ("Fourth Amendment standards applicable to mail matter moving entirely within the country are not applicable to mail matter coming in from outside the country at least where it appears that a customs determination must be made."). This right to search for possible customs violations extends also to incoming first class mail. *United States* v *Odland,* 502 F2d 148, 151 (7th Cir. 1974), *cert. denied,* 419 US 1088, 95 SCt 679, 42 L.Ed2d, 680 (1974) ("Any person or thing coming into the United States is subject to search by that fact alone . . ..* * * [T]he Government is free to spot-check incoming international mail at the port of entry, or to inspect all such mail, or to inspect any such mail which attracts the inspector's attention.").

[7] No court, however, has yet confronted the situation posed by this case, in which the search does not take place at a port of entry or border area. The question for decision is thus whether, given that the search would have been reasonable by Fourth Amendment standards if it had taken

place in the San Francisco post office, it became unreasonable as a result of being conducted in Birmingham.

Appellants argue strenuously that reversal of the district court is compelled by *Almeida-Sanchez* v *United States,* 413 US 266, 93 S Ct 2535, 37 L.Ed2d 596 (1973) (search of car on road that lies at all points at least 20 miles north of Mexican border, without probable cause or consent violates Fourth Amendment). In so contending they misconstrue the thrust of that case.

It is true that the rationale of *Almeida-Sanchez* is that the Fourth Amendment's standards of reasonableness for searches at a border or its functional equivalent differ from the standards applicable to searches in the interior of the country, but the bases for this distinction are inapposite here. First, since travelers are aware that they may be subjected to a customs inspection at the border, they do not have a reasonable expectation of privacy as they do when traveling in the country's interior, *cf. Katz* v *United States,* 389 US 437, 88 S Ct 507, 19 LEd2d 576 (1967) (Harland, J., concurring). When crossing a border, they accept as reasonable an intrusion which would offend their right to personal security if conducted elsewhere. Second, the government's interest in policing the traffic crossing its borders is by definition protected most efficiently at the border itself or its "functional equivalent," for example, "an established station near the border, at a point marking the confluence of two or more roads that extend from the border . . ." *Almeida-Sanchez* v *United States,* 413 US 266, 273, 93 S Ct 2535, 37 LEd2d 596 (1973). Finally, by searching only at a border or its functional equivalent, the government insures that it reaches only those individuals properly subject to such a search; obviously, this is not true of searches elsewhere.

None of these factors requiring reversal in Almeida-Sanchez is present here.[1] In the first place, of course, the letters themselves have no rights; it is the rights of their sender and addressee with which we are concerned. Appellants here could have had no reasonable expectation that their letters, mailed from abroad, would remain uninspected. *See United States* v *Odland,* 502 F2d 148 (7th Cir. 1974), *United States* v *Doe,* 472 F2d 982, 985 (2d Cir. 1973). Having had no control over the envelopes from the time they entered the postal system until the time they were delivered, appellants naturally could not have known whether the envelopes had been opened, and if so, at what point in the postal process. Appellants were thus no more inconvenienced by the search in Alabama than they would have been by one in California. Finally, searches of this kind are, of course, "far less intrusive than searches of individuals or of their immediate effects." *United States* v *Doe,* 472 F2d 982, 984-985 (2nd Cir. 1973).

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[1] Nor is appellants' argument strengthened by *Almeida-Sanchez's* progeny. In *United States v Ortiz,* ——US——, 95 S Ct 2585, 44 LEd2d——, 43 USLW 5026 (June 30, 1975), for example, the Court held that the Fourth Amendment forbids, in the absence of consent or probable cause, the search of private vehicles at traffic checkpoints not located at a border or its functional equivalent. The Court emphasized the "offensive" nature of the searches, noting that "the central concern of the Fourth Amendment is to protect liberty and privacy from arbitrary and oppressive interference by government officials." *Id.* at ——, 95 S Ct at 2588.

United States v *Brignoni-Ponce,* —— US ——, 95 S Ct 2590, 44 LEd2d ——, 43 USLW 5028 (June 30, 1975) holds that, except at a border of its functional equivalent, roving Border Patrol officers may stop vehicles only if they are aware of specific facts and rational inferences therefrom which reasonably justify a suspicion that the vehicles contain aliens illegally in the country. Again, the Court stressed that the individual's reasonable expectation of privacy outweighed the increased efficiency such searches lend to law enforcement. *Id.* at ——, 95 S Ct. 2580. These cases, then, rest on the same basic predicate as *Almeida-Sanchez,* that "the reasonableness of such seizures depends on a balance between the public interest and the individual's right to personal security free from arbitrary interference by law officers." *Id.* at ——, 95 S Ct at 2579. We subject the instant search to such an analysis *infra.*

The government's interest, by contrast, is equally strong and is served equally well whether the search occurs in California or Alabama.[2] And since nothing can be added to or taken from an envelope while it is in transit, and since postmarks clearly identify envelopes from aboard, there is no danger analogous to that presented in *Almeida-Sanchez* that the government will search envelopes not "within the proper scope of official scrutiny . . . ." *Almeida-Sanchez* v *United States,* 413 US 266, 271, 93 S Ct 2535, 2539, 37 LEd2d 596 (1973).

The search at issue is more comparable to the search approved by this court in *United States* v *Chiarito,* 507 F2d 1098 (5th Cir. 1975). There, we rejected appellant's contention that, having passed through an initial customs checkpoint, but not having left the customs inspection area, he was immune from a further search by a roving customs officer. Here, the envelopes had passed an initial stage in the customs process when they were routed to Alabama, but they were still in the process of being delivered, and still subject to customs inspection. Therefore, the search did not violate appellants' Fourth Amendment rights.

For the reasons stated, the decision of the district court is

Affirmed.

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[2] We do not rest our decision on the grounds that the search occurred at the functional equivalent of a border, but we note that the factual situation was quite similar to one given as an example in *Almeida-Sanchez, supra,* 413 US at 273, 93 S Ct at 2539 ("[A] search of the passengers and cargo of an airplane arriving at a St. Louis airport after a nonstop flight from Mexico City would clearly be the functional equivalent of a border search." (Footnote omitted.)). For all practical purposes, the envelopes reached the end of a "nonstop flight" when they arrived in Birmingham.

EXHIBIT 'B'

September 5, 1975

Mr. Mose F. Pearson
Reg. No. 97168
P.O. Box 4000
Springfield, Missouri 65802

Re: U.S.A. Vs. Edward King And Mose Franklin Pearson Case No. 74-3680

Dear Mose:

I received your letter and comments on the opinion of the Fifth Circuit Court of Appeals which I forwarded to you in my last letter.

Due to the fact that Federal Appellate procedure is strictly regulated, insofar as the time you are allowed to take the various steps required, and not wanting to close the door on further appeals, if you wish to proceed further.

I filed a Petition For Rehearing in the Fifth Circuit. This Petition For Rehearing was denied on September 4th and I received my copy this morning. I am enclosing a photostat of the Courts Order.

Our next step, if you desire to do so and if the necessary financial arrangements are made would be to attempt to have the matter heard by the United States Supreme Court.

They do not have to agree to hear your case. However, we have the right to present the matter to them and attempt to secure their reviewing the Fifth Circuits decision.

Mose, the appealing of a case to the United States Supreme Court is a rather massive undertaking. It requires *extensive preparation* and very substantial expense. For one example, 40 printed copies of certain required material have

to be filed. As I have informed you before, there was still an unpaid amount due for the appellate work to the Fifth Circuit. You had been a good client and had lived up to your commitments with me until your trial and I felt that I should do everything possible for you on the appeal to the Court of Appeals, which I did.

The United States Supreme Court, however, is a different matter, since the time that must be expended and the cost that will be incurred is extensive.

The minimum fee that I could charge to cover the filing of a writ to attempt to have your case considered by the Supreme Court would be $6,500.00, since the preparation of the writ and printing involved is considerable. If heard in Washington, an additional $3,500.00 will be required. The first $6,500.00 will have to be paid in full and in advance.

I felt that we raised very substantial questions on the appeal and I felt and still feel that the Court should have reversed the trial Court. I feel that the Supreme Court would look at this case closely. In short if you can afford to pay the freight to carry the case up, I think we should.

I only have thirty (30) days to commence proceedings. A considerable amount of work is required in the process. I therefore will have to receive instructions from you as to your wishes and the fee quoted must be paid no later than ten (10) days from this date. *I emphasize that time is critical* and any delay could be fatal if you decide to appeal. I am forwarding a photostat of this letter and the Fifth Circuit's denial of our Petition For Rehearing to your family in Detroit so they will know the situation. I have not heard from them since I sent you the opinion of the Fifth Circuit's Ruling. *Please advise me promptly!*

Sincerely,
SHEFFIELD AND DUNN
(s) Lawrence B. Sheffield, Jr.

LBS;Jr./rs
ENCLOSURE
CC: Ms. Paralee Campbell
Mr. Sylvester Pearson